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14 MAY 1971

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COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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Attached is the proposed testimony of Chairman Hampton in connection with his scheduled appearance before the Hanley Subcommittee on the Ervin bill on 19 May.

OMB has requested our views by close of business Monday, 17 May.

As you will read, Hampton's statement is hard-hitting and supports a full exemption for CIA and NSA. (Other comments of special interest to us appear on p. 2, 9, 10, 11, 12, 15, 16, and 21).

Please let us know if you have any comments or support the proposed testimony on a priority basis.

John M. Maury
Legislative Counsel

Per LRH, 14 MAY 1971
first rate statement
all points we would have made (see p. 15, for point 1)
LLM 14 MAY 1971

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17 MAY 1971

MEMORANDUM FOR: Deputy Director for Support

SUBJECT : Civil Service Commission Proposed
Testimony on H. R. 7199 and S. 1438

1. This memorandum is for information only.
2. Reference is made to the request for comments concerning the testimony of Chairman Robert E. Hampton of the Civil Service Commission in connection with his scheduled appearance before the Manley Subcommittee on the Ervin Bill.
3. This Office supports the testimony wholeheartedly, since Chairman Hampton urges that the security agencies, particularly CIA and NSA, "be completely excepted from the proposed legislation in the same way the Federal Bureau of Investigation is excepted in Section 9 of S. 1438".
4. Comments concerning the use of the polygraph in this Agency were set forth in my memorandum to you, dated 13 May 1971, Subject: Security Aspects of the Proposed "Invasion of Privacy Legislation". In the attachment to this memorandum, specific comments were made concerning Section 1 (k) of the proposed bill. Following are these comments:

Section 1 (k)

"Prohibits requiring an employee, under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice if he so requests. In the case of CIA and



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NBA, counsel must be either another employee of, or approved by, the agency involved. This right inures to the employee when first questioned and does not require that the employee be accused of any wrongdoing before he may request presence of counsel or friend."

Comments:

Section 1 (k) is of concern not only to the Office of Security but to all components of the Agency which deal with personnel. Of particular interest to the Office of Security, however, are the programs of the Office concerning the personal problems of employees of the Agency. Over the years, employees of this Agency have come to the Office of Security seeking assistance regarding various problems. In many of the cases, other employees are involved and during the interviews with these employees, the provisions of Section 1 (k) above would in effect nullify, to a great extent, the Office of Security program in the handling of these problem cases. In those cases of employees involved in basic security problems, the provisions of Section 1 (k) would make it impossible for the Office of Security and the Agency to resolve these problems to the satisfaction of the Agency.

The polygraph interview is in effect an interrogation and strict adherence to Section 1 (k) above would allow each person polygraphed to have counsel present at these interrogations. One of the basic guidelines of the Office of Security in handling security personnel problem cases is the effort to keep the cases confidential and to prevent disclosure to unauthorized persons. In addition, some of these cases involve repercussions from the counterintelligence field and adherence to Section 1 (k) would prevent this Office from fulfilling its basic obligations.

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 Howard J. Osborn
 Director of Security

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DIRECTOR'S STATEMENT ON S. 782

Mr. Chairman:

I thank you for permitting me this opportunity to testify before your Subcommittee in executive session on S. 782. I appear before you as Director of Central Intelligence, and as you know that position has dual responsibilities. I am head of the Central Intelligence Agency, but I am also charged with coordinating the intelligence activities of the executive branch in the interest of national security.

I would first like to address myself to the problems of the Central Intelligence Agency and to the personal responsibility placed upon me by the National Security Act of 1947 (section 102(d)(3) "for protecting intelligence sources and methods from unauthorized disclosure." [Later I will speak from the standpoint of my responsibilities for intelligence activities of the Government generally.]

It is an undeniable, if unfortunate, fact of life that the United States is not surrounded by a world community consisting entirely of stable, peaceful democracies, but is subject to constant pressure and subversion by hostile powers. It is this reality which confronts the United States Government, which shapes the mission of the

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also directly to the Inspector General, who is a member of my immediate staff. Experience shows that in many situations where an employee feels aggrieved or that his supervisor has acted improperly the matter can be quickly adjudicated through grievance procedures and appeal mechanisms. The use of such procedures permits complete assembly of factual information, much of which is highly classified. Thus, judgments can be made based on full and complete information.

I hope that in dealing with some of the specifics I have not given the impression that I am asking for further partial exemptions and piecemeal adjustments of S. 782. [I believe the only satisfactory solution is for an exemption for the field of intelligence. In this connection, I would like to turn to my responsibilities for the intelligence community generally. As you know, this is made up basically of the Central Intelligence Agency, Federal Bureau of Investigation, National Security Agency, Defense Intelligence Agency, and a number of other offices in the Department of State, Atomic Energy Commission, and the armed services. While there is such compartmentation as is required for security, there is also much coordination, cooperation, and exchange of information. The personnel throughout the community, therefore, are exposed to much of the same type of sensitive information as I have

discussed in connection with Central Intelligence Agency employees and should meet the same standards of integrity, suitability, and security. While each department and agency is responsible for the selection and administration of its employees, the problems I have discussed in connection with personnel of the Central Intelligence Agency are common to all intelligence components. Therefore, if S. 782 is enacted to apply to those components, it would be a serious impediment to the effective protection of intelligence sources and methods.]

I would like to point out that the Congress and the executive branch have both given ample recognition in the past to the fact that the special national security interests involved in the intelligence activities of this Government require exemption from some of the broad regulations established for Federal employees. In the National Security Act of 1947, which established the Agency, the Director was empowered to terminate employment of any employee whenever he deemed such action necessary or advisable, and this authority may be exercised "notwithstanding the provisions of any other law." Two years later, in the Central Intelligence Agency Act of 1949, it was specifically provided that in the interests of the security of the foreign intelligence activities of the United States, the Agency was exempted from a number of specific statutes

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